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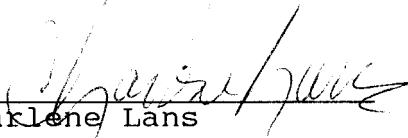
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Donald Eyles Paper No:
Serial No: 07/891,934 Group: 2308
Filed: May 29, 1992 Examiner: DOWNS
For: SYSTEM AND METHOD FOR Docket No: DR-232J
AUTOMATICALLY EXECUTING
DECISIONAL RULES

To the Commissioner of Patents and Trademarks
Washington, DC 20231

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to Commissioner of Patents and Trademarks, Washington, DC 20231, on December 29, 1994.



Charlene Lans

PETITION FOR EXTENSION OF TIME WITHIN THE THIRD MONTH

Applicant respectfully petitions that he be granted an extension of time within the third month, until January 8, 1994 in accordance with 37 CFR 1.136(a), and 1.7, to file a Response to the Office Action mailed July 8, 1994. Our check in the amount of \$435.00 is enclosed for the fee for a small entity to obtain this extension.

If for any reason this Petition is found to be incomplete, or if at any time it appears that a telephone conference with counsel would help advance prosecution, please telephone the undersigned or his associate, Joseph S. Iandiorio, collect in Waltham, Massachusetts, (617) 890-5678.

Respectfully submitted,


Kirk Teska
Reg. No. 36,291

DR-232J
kct

Application, Jan - to AFA

Serial Number: 07/891,934
Art Unit: 2308

-2-

upon reviewing Baker Oil Tools Inc. v. Geo Van Inc. it is clear that merely stating that the prior use was "primarily experimental" is insufficient evidence to demonstrate that this is in fact the case. Baker states that the courts have considered various factors, such as the necessity for the public testing, the amount of control retained over the operation, the extent of public testing in relation to the nature of the invention, the length of the test period, whether any payment was made, whether there was a secrecy obligation, whether progress records were kept, who conducted the experiments, and the degree of commercial exploitation during the tests in relation to the purpose of the experimentation. Further, with respect to the rejection over Perkins, the argument that perkins fails to teach where a system automatically writes code is not persuasive. None of the claims recite a system which automatically writes code, or where a user enters a "when... then..." statement.

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Downs whose telephone number is (703) 305-9642.

RWD
September 21, 1994

Robert W. Downs

ROBERT W. DOWNS
PRIMARY EXAMINER
GROUP 2300